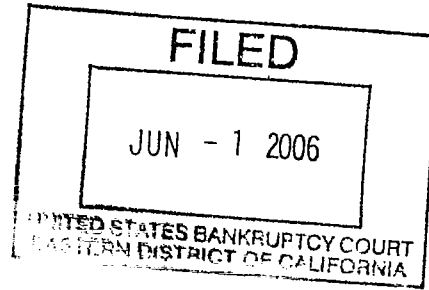


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Gary R. Farrar



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
(Sacramento Division)

-oOo-

In re

BK NO. 05-20452-C-7

CHHANN MOM,

Debtor.

GARY R. FARRAR, Trustee of the  
Chhann Mom Chapter 7 estate,

ADV. NO. 06-02177-C

Plaintiff,

DC No. MHK-1

vs.

CHHOUN MOM, an individual,

Defendant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW PURSUANT TO DEFAULT

The Court having considered the Application for Entry of Judgment by Default (the "Application") and Plaintiff's Complaint to Avoid Unauthorized Post-Petition Transfer and/or Fraudulent Conveyance, for Turnover, and for Declaratory Relief; Alternatively, for Damages (the "Complaint"), by Gary R. Farrar, Trustee of the Chhann Mom Chapter 7

ihlfarrar@mombjudgment.fof

RECEIVED

May 26, 2006

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
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CT AND CONCLUSIONS OF LAW

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1 estate ("Plaintiff" or the "Trustee"), against Defendant Chhoun Mom, as well as the  
 2 evidence filed in support of Plaintiff's Application; the Court makes the following findings <sup>defendant</sup>  
 3 of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052, <sup>7-55</sup>  
 4 incorporating Federal Rule of Civil Procedure 52, and 28 U.S.C. section 157(b)(1):

5 1. The debtor, Chhann Mom (the "Debtor"), filed a voluntary petition for  
 6 relief under Chapter 7 of the Bankruptcy Code on January 14, 2005 (the "Petition Date").  
 7 Plaintiff was appointed as the Chapter 7 trustee in the Mom bankruptcy case on January  
 8 14, 2005. Plaintiff filed the Complaint against Chhoun Mom (the "Defendant") on April  
 9 10, 2006. Pursuant to 11 U.S.C. section 323, Plaintiff is the authorized representative of  
 10 the Mom Chapter 7 estate and is authorized to bring the above-captioned action on behalf  
 11 of the estate.

12 2. The Adversary Proceeding was commenced pursuant to 11 U.S.C sections  
 13 542, 544(b), 549(a), 550(a) and 551; California Civil Code sections 3439, et seq.; Federal  
 14 Rules of Bankruptcy Procedure ("FRBP") 7001(a) and (9), and 7070; and Federal Rule of  
 15 Civil Procedure ("FRCP") 70. This Court has jurisdiction over the Adversary Proceeding  
 16 under 28 U.S.C. sections 1334(b) and 157(a). Venue is proper in this Court pursuant to  
 17 28 U.S.C. section 1409(a).

18 3. The adversary proceeding is a core proceeding, as defined in 28 U.S.C.  
 19 section 157(b)(2)(A), (E), (H) (N), and (O).

20 4. The court issued the summons on April 11, 2006. Plaintiff served the  
 21 Defendant by United States Mail with the summons, complaint and related documents  
 22 required by the FRBP and the Bankruptcy Local Rules on April 13, 2006. The default of  
 23 defendant Chhoun Mom, an individual, was properly entered by the Clerk of the Court on  
 24 May 22, 2006.

25 5. On the Petition Date, record title to certain real property known as 1725  
 26 South Chadwick Street, Philadelphia, Philadelphia County, Pennsylvania 19145, Parcel No.  
 27 2218001725(the "Property"), was held solely in the Debtor's name.

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1           6.     On May 3, 2005, the Trustee recorded a certified copy of the Debtor's  
2 Voluntary Petition with the Commissioner of Records, City of Philadelphia, Philadelphia  
3 County, Pennsylvania, Document No. 51167889.

4           7.     The Debtor purported to transfer his interest in the Property to Defendant  
5 Chhoun Mom by means of a deed executed on or about June 17, 2005 and recorded on  
6 or about July 7, 2005 in Philadelphia County, Pennsylvania, Document No. 51215113 (the  
7 "Transfer").

8           8.     Defendant Chhoun Mom had both constructive and actual knowledge of  
9 the Debtor's bankruptcy filing at the time of the Transfer.

10          9.     Defendant Chhoun Mom did not give any consideration for the Transfer,  
11 except possibly \$1.00.

12          10.    The Property was property of the Mom Chapter 7 Estate within the  
13 meaning of 11 U.S.C. section 541(a)(1) at the time of the Transfer.

14          11.    The Transfer was not authorized by the Bankruptcy Court or the provisions  
15 of the Bankruptcy Code.

16          12.    An actual controversy exists as to ownership of the Property.

17          13.    The Transfer is avoidable under 11 USC section 549(a).

18          14.    Upon avoidance of the Transfer, the Property is preserved for the benefit  
19 of the Mom Chapter 7 estate pursuant to 11 USC section 551.

20          15.    Defendant is the initial transferee for whose benefit the Transfer was  
21 made.

22          16.    Plaintiff may recover the Property from the Defendant for the benefit of  
23 the Mom Chapter 7 estate pursuant to 11 U.S.C. section 550(a)(1).

24          17.    Any interest in property preserved for the benefit of the estate is property  
25 of the Mom Chapter 7 estate under 11 U.S.C. section 550(a)(4).

26          18.    Pursuant to 11 U.S.C. section 542(a), Defendant Chhoun Mom is required  
27 to turn over the Property to the Trustee.

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1           19. Pursuant to FRBP 7070, which incorporates FRCP 70, the Trustee is  
2 entitled to a judgment divesting Defendant Chhoun Mom of title to the Property and  
3 vesting title to the Property in the Trustee.

4           20. The Trustee is entitled to a judgment or order directing Defendant Chhoun  
5 Mom to turn over possession of the Property to the Trustee.

6           21. Plaintiff is entitled to declaratory relief regarding title to the Property.  
7  
8

9 Dated:

JUN - 1 2006

  
HONORABLE CHRISTOPHER M. KLEIN  
JUDGE, UNITED STATES BANKRUPTCY COURT